

§ 10.36

resulting from the NRC's reinvestigation program or other sources, will be evaluated relative to an individual's continued eligibility in accordance with the procedures of this part.

(b) Where, pursuant to these procedures, the Commission or Deputy Executive Director for Management Services has made a determination denying or revoking an access authorization and/or an employment clearance to an individual, the individual's eligibility for an access authorization and/or an employment clearance may be reconsidered when there is a bona fide offer of employment and/or a bona fide need for access to Restricted Data or National Security Information and either material and relevant new evidence is presented, which the individual and his or her representatives are without fault in failing to present before, or there is convincing evidence of reformation or rehabilitation. Requests for reconsideration must be submitted in writing to the Deputy Executive Director for Management Services through the Director, Office of Administration. Requests must be accompanied by an affidavit setting forth in detail the information referred to above. The Deputy Executive Director for Management Services shall cause the individual to be notified as to whether his or her eligibility for an access authorization and/or an employment clearance will be reconsidered and if so, the method by which a reconsideration will be accomplished.

(c) Where an access authorization and/or an employment clearance has been granted to an individual by the Director, Division of Facilities and Security, without recourse to the procedures set forth in §§10.20 through 10.34, the individual's eligibility for an access authorization and/or an employment clearance will be reconsidered only in a case where, subsequent to the granting of the access authorization and/or employment clearance, new derogatory information has been received or the scope or sensitivity of the Restricted Data or National Security Information to which the individual has or will have access has significantly increased. All new derogatory information, whether resulting from the NRC's reinvestigation program or other

10 CFR Ch. I (1-1-05 Edition)

sources, will be evaluated relative to an individual's continued eligibility in accordance with the procedures of this part.

[64 FR 15645, Apr. 1, 1999]

Subpart D—Miscellaneous

§ 10.36 Terminations.

In the event the individual is no longer an applicant for access authorization and/or employment clearance or no longer requires such, the procedures of this part shall be terminated without a final determination as to the individual's eligibility for access authorization and/or employment clearance.

§ 10.37 Attorney representation.

In the event the individual is represented by an attorney or other representative, the individual shall file with the Director, Office of Administration, a document designating such attorney or representative and authorizing such attorney or representative to receive all correspondence, transcripts, and other documents pertaining to the proceeding under this part.

[47 FR 38676, Sept. 2, 1982, as amended at 52 FR 31610, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

§ 10.38 Certifications.

Whenever information is made a part of the record under the exceptions authorized by §10.28 (i), (j), or (l), the record shall contain certificates evidencing that the required determinations have been made.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

GENERAL PROVISIONS

Sec.

- 11.1 Purpose.
- 11.3 Scope.
- 11.5 Policy.
- 11.7 Definitions.
- 11.8 Information collection requirements:
 - OMB approval.
- 11.9 Specific exemptions.

Nuclear Regulatory Commission

§ 11.7

11.10 Maintenance of records.

REQUIREMENTS FOR SPECIAL NUCLEAR MATERIAL ACCESS AUTHORIZATION

11.11 General requirements.

11.13 Special requirements for transportation.

11.15 Application for special nuclear material access authorization.

11.16 Cancellation of request for special nuclear material access authorization.

CRITERIA FOR DETERMINING ELIGIBILITY FOR ACCESS TO, OR CONTROL OVER, SPECIAL NU- CLEAR MATERIAL

11.21 Application of the criteria.

VIOLATIONS

11.30 Violations.

11.32 Criminal penalties.

AUTHORITY: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

SOURCE: 45 FR 76970, Nov. 21, 1980, unless otherwise noted.

GENERAL PROVISIONS

§ 11.1 Purpose.

This part establishes the requirements for special nuclear material access authorization, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization for conduct of certain activities, licensed or otherwise, which involve access to or control over special nuclear material.

§ 11.3 Scope.

(a) The requirements, criteria, and procedures of this part apply to the establishment of and eligibility for special nuclear material access authorization for employees, contractors, consultants of, and applicants for employment with licensees or contractors of the Nuclear Regulatory Commission. This employment, contract, service, or consultation may involve any duties or assignments within the criteria of § 11.11 or § 11.13 requiring access to, or control over, formula quantities of special nuclear material (as defined in part 73 of this chapter).

(b) The requirements, criteria, and procedures of this part are in addition

to and not in lieu of any requirements, criteria, or procedures for access to or control over classified special nuclear material.

[45 FR 76970, Nov. 21, 1980, as amended at 64 FR 15645, Apr. 1, 1999]

§ 11.5 Policy.

It is the policy of the Nuclear Regulatory Commission to carry out its authority to establish and administer, in a manner consistent with traditional American concepts of justice, a personnel security program in the interests of the common defense and security for the purpose of safeguarding special nuclear material and preventing sabotage which would endanger the public by exposure to radiation. To this end, the Commission has established criteria for determining eligibility for special nuclear material access authorization and will afford affected individuals the opportunity for administrative review of questions concerning their eligibility for special nuclear material access authorization.

§ 11.7 Definitions.

As used in this part:

Terms defined in parts 10, 25, 50, 70, 72, 73, and 95 of this chapter have the same meaning when used in this part.

NRC-“R” special nuclear material access authorization means an administrative determination based upon a national agency check with law and credit investigation that an individual in the course of employment is eligible to work at a job falling within the criterion of § 11.11(a)(2).

NRC-“U” special nuclear material access authorization means an administrative determination based upon a single scope background investigation, normally conducted by the Office of Personnel Management, that an individual in the course of employment is eligible to work at a job falling within the criterion of 11.11(a)(1) or 11.13.

Special nuclear material access authorization means an administrative determination that an individual (including a contractor or consultant) who is employed by or is an applicant for employment with an affected Commission contractor, licensee of the Commission, or contractor of a licensee of the Commission may work at a job which